

BENDAU & BENDAU PLLC
Clifford P. Bendau, II (030204)
Christopher J. Bendau (032981)
P.O. Box 97066
Phoenix, Arizona 85060
Telephone: (480) 382-5176
Facsimile: (480) 304-3805
Email: cliffordbendau@bendaulaw.com
chris@bendaulaw.com
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Gregory Stamper,

Plaintiff,

vs.

Freebird Logistics, Inc., an Arizona
corporation, **Jeffrey Larsen and Jane
Doe Larsen**, a married couple, and **Kurt
Larsen and Jane Doe Larsen II**, a
married couple,

Defendants.

No.

VERIFIED COMPLAINT

Plaintiff, Gregory Stamper (“Plaintiff” or “Stamper”), sues the Defendants
Freebird Logistics, Inc., Jeffrey Larsenn and Jane Doe Larsen, and Kurt Larsen and Jane
Doe Larsen II, (“Defendants”) and alleges as follows:

PRELIMINARY STATEMENT

1. This is an action for unpaid minimum wages, unpaid overtime wages,
liquidated damages, attorneys’ fees, costs, and interest under the Fair Labor Standards
Act (“FLSA”), 29 U.S.C. § 201, et seq.; unpaid minimum wage under the Arizona
Minimum Wage Act (“AMWA”), Arizona Revised Statutes (“A.R.S.”) Title 23, Chapter

1 2, Article 8; and unpaid wages under the Arizona Wage Act (“AWA”), A.R.S. Title 23,
2 Chapter 2, Article 7.

3 2. The FLSA was enacted “to protect all covered workers from substandard
4 wages and oppressive working hours.” Barrentine v. Ark Best Freight Sys. Inc., 450 U.S.
5 728, 739 (1981). Under the FLSA, employers must pay all non-exempt employees a
6 minimum wage of pay for all time spent working during their regular 40-hour
7 workweeks. See 29 U.S.C. § 206(a). Under the FLSA, employers must pay all non-
8 exempt employees one and one-half their regular rate of pay for all hours worked in
9 excess of 40 hours in a workweek. See 29 U.S.C § 207.
10
11

12 3. The AMWA, A.R.S § 23-363, et seq., establishes a minimum wage within
13 the State of Arizona.

14 4. The AWA, A.R.S. § 23-350, et seq., establishes standards for wage
15 payments to employees within the State of Arizona.
16

17 **JURISDICTION AND VENUE**

18 5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and
19 29 U.S.C. § 201, *et seq.* because this civil action arises under the Constitution and law of
20 the United States. This Court also has subject matter jurisdiction pursuant 28 U.S.C. §
21 1367 because the state law claims asserted herein are so related to claims in this action
22 over which this Court has subject matter jurisdiction that they form part of the same case
23 or controversy under Article III of the United States Constitution.
24

25 6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(ii) because
26 acts giving rise to the claims of Plaintiff occurred within the District of Arizona, and
27

1 Defendants regularly conduct business in and have engaged in the wrongful conduct
2 alleged herein – and, thus, are subject to personal jurisdiction in – this judicial district.

3 **PARTIES**

4 7. At all times material to the matters alleged in this Complaint, Plaintiff was
5 an individual residing in Maricopa County, Arizona, and is a former employee of
6 Defendants.
7

8 8. At all material times, Freebird Logistics, Inc. was a corporation duly
9 licensed to transact business in the State of Arizona. At all material times, Defendant
10 Freebird Logistics, Inc. does business, has offices, and/or maintains agents for the
11 transaction of its customary business in Maricopa County, Arizona.
12

13 9. At all relevant times, Defendant Freebird Logistics, Inc. owned and
14 operated as “Freebird Logistics,” a delivery company contracted to provide delivery
15 services for Fed Ex.
16

17 10. Under the FLSA, Defendant Freebird Logistics, Inc. is an employer. The
18 FLSA defines “employer” as any person who acts directly or indirectly in the interest of
19 an employer in relation to an employee. At all relevant times, Defendant Freebird
20 Logistics, Inc. had the authority to hire and fire employees, supervised and controlled
21 work schedules or the conditions of employment, determined the rate and method of
22 payment, and maintained employment records in connection with Plaintiff’s employment
23 with Defendants. As a person who acted in the interest of Defendant Freebird Logistics,
24 Inc. in relation to the company’s employees, Defendant Freebird Logistics, Inc. is subject
25 to liability under the FLSA.
26
27

1 11. Defendants Jeffrey Larsen and Jane Doe Larsen, upon information and
2 belief, husband and wife. They have caused events to take place giving rise to the claims
3 in this Complaint as to which their marital community is fully liable. Jeffrey Larsen and
4 Jane Doe Larsen are owners of Defendant Freebird Logistics, Inc. and were at all relevant
5 times Plaintiff's employers as defined by the FLSA, 29 U.S.C. § 203(d).
6

7 12. Under the FLSA, Defendants Jeffrey Larsen and Jane Doe Larsen are
8 employers. The FLSA defines "employer" as any person who acts directly or indirectly
9 in the interest of an employer in relation to an employee. At all relevant times,
10 Defendants Jeffrey Larsen and Jane Doe Larsen had the authority to hire and fire
11 employees, supervised and controlled work schedules or the conditions of employment,
12 determined the rate and method of payment, and maintained employment records in
13 connection with Plaintiff's employment with Defendants. As persons who acted in the
14 interest of Defendant Freebird Logistics, Inc. in relation to the company's employees,
15 Defendants Jeffrey Larsen and Jane Doe Larsen are subject to individual liability under
16 the FLSA.
17

18 13. Defendants Kurt Larsen and Jane Doe Larsen II are, upon information and
19 belief, husband and wife. They have caused events to take place giving rise to the claims
20 in this Complaint as to which their marital community is fully liable. Kurt Larsen and
21 Jane Doe Larsen II are owners of Defendant Freebird Logistics, Inc. and were at all
22 relevant times Plaintiff's employers as defined by the FLSA, 29 U.S.C. § 203(d).
23

24 14. Under the FLSA, Defendants Kurt Larsen and Jane Doe Larsen II are
25 employers. The FLSA defines "employer" as any person who acts directly or indirectly
26
27

1 in the interest of an employer in relation to an employee. At all relevant times,
2 Defendants Kurt Larsen and Jane Doe Larsen II had the authority to hire and fire
3 employees, supervised and controlled work schedules or the conditions of employment,
4 determined the rate and method of payment, and maintained employment records in
5 connection with Plaintiff's employment with Defendants. As persons who acted in the
6 interest of Defendant Freebird Logistics, Inc. in relation to the company's employees,
7 Defendants Kurt Larsen and Jane Doe Larsen II are subject to individual liability under
8 the FLSA.
9

10
11 15. Plaintiff is further informed, believes, and therefore alleges that each of the
12 Defendants herein gave consent to, ratified, and authorized the acts of all other
13 Defendants, as alleged herein.

14
15 16. Defendants, and each of them, are sued in both their individual and
16 corporate capacities.

17
18 17. Defendants are jointly and severally liable for the injuries and damages
19 sustained by Plaintiff.

20
21 18. At all relevant times, Plaintiff was an "employee" of Defendants as defined
22 by the FLSA, 29 U.S.C. § 201, *et seq.*

23
24 19. The provisions set forth in the FLSA, 29 U.S.C. § 201, *et seq.*, apply to
25 Defendants.

26
27 20. At all relevant times, Defendants were and continue to be "employers" as
defined by the FLSA, 29 U.S.C. § 201, *et seq.*

1 21. The provisions set forth in the A.R.S. Title 23, Articles 7 and 8 apply to
2 Defendants.

3 22. At all relevant times, Plaintiff was an “employee” of Defendants as defined
4 by A.R.S. § 23-362.

5 23. At all relevant times, Defendants were and continue to be “employers” of
6 Plaintiff as defined by A.R.S. § 23-362.

7 24. Defendants individually and/or through an enterprise or agent, directed and
8 exercised control over Plaintiff’s work and wages at all relevant times.
9

10 25. Plaintiff, in his work for Defendants, was employed by an enterprise
11 engaged in commerce that had annual gross sales of at least \$500,000.
12

13 26. At all relevant times, Plaintiff, in his work for Defendants, was engaged in
14 commerce or the production of goods for commerce.
15

16 27. At all relevant times, Plaintiff, in his work for Defendants, was engaged in
17 interstate commerce.

18 28. Plaintiff, in his work for Defendant, regularly handled goods produced or
19 transported in interstate commerce.
20

21 **FACTUAL ALLEGATIONS**

22 29. Defendants own and/or operate as Freebird Logistics, an enterprise located
23 in Maricopa County, Arizona.

24 30. Defendant Freebird Logistics, Inc. is a delivery company located in
25 Phoenix, Arizona.
26

27 31. Plaintiff was hired by Defendants in approximately September 20, 2021.

1 32. At all relevant times, Plaintiff worked for Defendants until approximately
2 September 28, 2021.

3 33. At all relevant times, in his work for Defendants, Plaintiff worked as a
4 delivery driver.

5 34. Defendants, in their sole discretion, paid Plaintiff a daily rate of \$200.00.
6

7 35. Plaintiff, in his work for Defendants, was generally scheduled to, and did,
8 work approximately 10-12 hours per day.

9 36. Upon information and belief, as a result, Plaintiff worked approximately 72
10 hours during the workweek of September 20, 2021.

11 37. Upon information and belief, as a result, Plaintiff worked approximately 24
12 hours during the workweek of September 27, 2021.

13 38. Defendants failed to compensate Plaintiff any wage whatsoever for the
14 hours he spent working for Defendants.
15

16 39. As a result of not having paid any wage whatsoever to Plaintiff during his
17 employment with Defendants, Defendants failed to pay the applicable minimum wage to
18 Plaintiff.
19

20 40. Defendants did not compensate Plaintiff one and one-half times his regular
21 rate of pay for all hours worked in excess of 40 hours in a workweek.
22

23 41. As a result, Defendants failed to properly compensate Plaintiff overtime
24 wages.
25

26 42. Defendants classified Plaintiff as W-2 employee.

27 43. In his work for Defendants, Plaintiff was not compensated on a salary basis.

1 44. In his work for Defendants, Plaintiff did not have supervisory authority
2 over any employees.

3 45. In his work for Defendants, Plaintiff did not possess the authority to hire or
4 fire employees.

5 46. In his work for Defendants, Plaintiff did not possess authority to make
6 critical job decisions with respect to any of Defendants' employees.

7 47. In his work for Defendants, Plaintiff did not direct the work of two or more
8 employees.
9

10 48. In his work for Defendants, Plaintiff did not exercise discretion and
11 independent judgment with respect to matters of significance.

12 49. Plaintiff's primary duty was not the management of the enterprise in which
13 he was employed or any recognized department of the enterprise.
14

15 50. From the beginning of Plaintiff's employment through the present day,
16 Defendants failed to properly compensate him for any of his overtime hours.

17 51. At all relevant times, Defendants controlled Plaintiff's schedules.

18 52. At all relevant times, Plaintiff was economically dependent on Defendants.

19 53. At all relevant times, Defendants did not pay Plaintiff one and one-half
20 times his regular rates of pay for time spent working in excess of 40 hours in a given
21 workweek.
22

23 54. As a result of Defendants' willful failure to compensate Plaintiff any wage
24 whatsoever for such hours worked, Defendants violated 29 U.S.C. § 206(a).
25
26
27

1 55. As a result of Defendants' willful failure to compensate Plaintiff any wage
2 whatsoever for such hours worked, Defendants violated 29 U.S.C. § 207(a).

3 56. As a result of Defendants' willful failure to compensate Plaintiff any wage
4 whatsoever for such hours worked, Defendants violated the AMWA, A.R.S. § 23-363.

5 57. As a result of Defendants' willful failure to compensate Plaintiff any wage
6 whatsoever for such hours worked, Defendants violated the AWA, A.R.S., § 23-351.

7 58. Plaintiff was a non-exempt employee.

8 59. At all relevant times, Defendants failed to properly compensate Plaintiff for
9 any of his overtime hours.
10

11 60. At all relevant times, Defendants also failed to properly compensate
12 Plaintiff at the applicable minimum wage for many of his hours worked for Defendants.
13

14 61. Defendants knew that – or acted with reckless disregard as to whether –
15 their refusal or failure to properly compensate Plaintiff during the course of his
16 employment would violate federal and state law, and Defendants were aware of the
17 FLSA minimum wage and overtime requirements during Plaintiff's employment. As
18 such, Defendants' conduct constitutes a willful violation of the FLSA and the AMWA.
19

20 62. Defendants refused and/or failed to properly disclose to or apprise Plaintiff
21 of his rights under the FLSA.
22

23 63. Plaintiff is a covered employee within the meaning of the FLSA.

24 64. Defendants refused and/or failed to properly disclose to or apprise Plaintiff
25 of his rights under the FLSA.
26
27

65. Defendants individually and/or through an enterprise or agent, directed and exercised control over Plaintiff's work and wages at all relevant times.

66. Due to Defendants' illegal wage practices, Plaintiff is entitled to recover from Defendants compensation for unpaid minimum and overtime wages, an additional amount equal amount as liquidated damages, interest, and reasonable attorney's fees and costs of this action under 29 U.S.C. § 216(b).

67. Due to Defendants' illegal wage practices, Plaintiff is entitled to recover from Defendants compensation for unpaid wages, an additional amount equal to twice the unpaid minimum wages as liquidated damages, interest, and reasonable attorney's fees and costs of this action under A.R.S. § 23-363.

68. Due to Defendants' illegal wage practices, Plaintiff is entitled to recover from Defendants compensation for his unpaid wages at an hourly rate, to be proven at trial, in an amount that is treble the amount of his unpaid wages, plus interest thereon, and his costs incurred under A.R.S. § 23-355.

COUNT ONE: FAIR LABOR STANDARDS ACT
FAILURE TO PAY OVERTIME

69. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

70. Plaintiff was a non-exempt employee entitled to statutorily mandated overtime wages.

71. In a given workweek, Defendants failed to pay one and one-half times the applicable regular rate of pay for all hours worked in excess of 40 hours.

1 72. As a result of Defendants' failure to pay Plaintiff one and one-half times his
2 regular rate for all hours worked in excess of 40 per week in a given workweek,
3 Defendants failed and/or refused to pay Plaintiff the applicable overtime rate for all hours
4 worked for the duration of his employment, in violation of 29 U.S.C. § 207.

5
6 73. As a result of Defendants' willful failure to compensate Plaintiff the
7 applicable overtime rate for all hours worked, Defendants violated the FLSA.

8 74. As such, the full applicable overtime rate is owed for all hours that Plaintiff
9 worked in excess of 40 hours per week.

10
11 75. Defendants knew that – or acted with reckless disregard as to whether –
12 their failure to pay Plaintiff the proper overtime rate would violate federal and state law,
13 and Defendants were aware of the FLSA minimum wage requirements during Plaintiff's
14 employment. As such, Defendants' conduct constitutes a willful violation of the FLSA.

15
16 76. Defendants have and continue to willfully violate the FLSA by not paying
17 Plaintiff a wage equal to one and one-half times the applicable regular rate of pay for all
18 time Plaintiff spent working for Defendants.

19 77. Plaintiff is therefore entitled to compensation one and one-half times his
20 regular rate of pay for all hours worked in excess of 40 per week at an hourly rate, to be
21 proven at trial, plus an additional equal amount as liquidated damages, together with
22 interest, costs, and reasonable attorney fees.

23
24 **WHEREFORE**, Plaintiff, Gregory Stamper, respectfully requests that this Court
25 grant the following relief in Plaintiff's favor, and against Defendants:
26
27

- 1 A. For the Court to declare and find that the Defendants committed one of
- 2 more of the following acts:
- 3 i. Violated overtime wage provisions of the FLSA, 29 U.S.C. § 207(a),
- 4 by failing to pay proper minimum wages;
- 5 ii. Willfully violated overtime wage provisions of the FLSA, 29 U.S.C.
- 6 § 207(a) by willfully failing to pay proper overtime wages;
- 7
- 8 B. For the Court to award Plaintiff's unpaid overtime wage damages, to be
- 9 determined at trial;
- 10
- 11 C. For the Court to award compensatory damages, including liquidated
- 12 damages pursuant to 29 U.S.C. § 216(b), to be determined at trial;
- 13
- 14 D. For the Court to award prejudgment and post-judgment interest;
- 15 E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the
- 16 action pursuant to 29 U.S.C. § 216(b) and all other causes of action set
- 17 forth herein;
- 18 F. Such other relief as this Court shall deem just and proper.

COUNT TWO: FAIR LABOR STANDARDS ACT
FAILURE TO PAY MINIMUM WAGE

21 78. Plaintiff realleges and incorporates by reference all allegations in all
22 preceding paragraphs.

23

24 79. As a result of not paying Plaintiff any wage whatsoever for hours he
25 worked for Defendants, Defendant willfully failed or refused to pay Plaintiff the FLSA-
26 mandated minimum wage.

27

80. Defendant's practice of willfully failing or refusing to pay Plaintiff at the required minimum wage rate violated the FLSA, 29 U.S.C. § 206(a).

81. Plaintiff is therefore entitled to compensation for the full applicable minimum wage at an hourly rate, to be proven at trial, plus an additional equal amount as liquidated damages, together with interest, reasonable attorney's fees, and costs.

WHEREFORE, Plaintiff, Gregory Stamper, respectfully requests that this Court grant the following relief in Plaintiff's favor, and against Defendants:

- A. For the Court to declare and find that the Defendants committed one or more of the following acts:
 - i. Violated minimum wage provisions of the FLSA, 29 U.S.C. § 206(a), by failing to pay proper minimum wages;
 - ii. Willfully violated minimum wage provisions of the FLSA, 29 U.S.C. § 206(a) by willfully failing to pay proper minimum wages;
- B. For the Court to award Plaintiff's unpaid minimum wage damages, to be determined at trial;
- C. For the Court to award compensatory damages, including liquidated damages pursuant to 29 U.S.C. § 216(b), to be determined at trial;
- D. For the Court to award prejudgment and post-judgment interest;
- E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the action pursuant to 29 U.S.C. § 216(b) and all other causes of action set forth herein;
- F. Such other relief as this Court shall deem just and proper.

COUNT THREE: ARIZONA MINIMUM WAGE ACT
FAILURE TO PAY MINIMUM WAGE

82. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

83. As a result of not paying Plaintiff any wage whatsoever for the hours he worked for Defendants, Defendants willfully failed or refused to pay Plaintiff the Arizona minimum wage.

84. Defendant's practice of willfully failing or refusing to pay Plaintiff at the required minimum wage rate violated the AMWA, 23-363.

85. Plaintiff is therefore entitled to compensation for the full applicable minimum wage at an hourly rate, to be proven at trial, plus an additional amount equal to twice the underpaid wages as liquidated damages, together with interest, reasonable attorney's fees, and costs.

WHEREFORE, Plaintiff, Gregory Stamper, respectfully requests that this Court grant the following relief in Plaintiff's favor, and against Defendants:

A. For the Court to declare and find that the Defendant committed one of more of the following acts:

i. Violated minimum wage provisions of the AMWA, A.R.S. § 23-363, by failing to pay proper minimum wages;

ii. Willfully violated minimum wage provisions of the AMWA, A.R.S. § 23-363 by willfully failing to pay proper minimum wages;

1 B. For the Court to award Plaintiff's unpaid minimum wage damages, to be
2 determined at trial;

3 C. For the Court to award compensatory damages, including liquidated
4 damages pursuant to A.R.S. § 23-364, to be determined at trial;

5 D. For the Court to award prejudgment and post-judgment interest;

6 E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the
7 action pursuant to A.R.S. § 23-364 and all other causes of action set forth
8 herein;
9

10 F. Such other relief as this Court shall deem just and proper.
11

12 **COUNT FOUR: ARIZONA WAGE ACT**
13 **FAILURE TO PAY WAGES DUE AND OWING**

14 86. Plaintiff realleges and incorporates by reference all allegations in all
15 preceding paragraphs.

16 87. As a result of the allegations contained herein, Defendants did not
17 compensate Plaintiff wages due and owing to him.
18

19 88. Defendants engaged in such conduct in direct violation of A.R.S. § 23-350.

20 89. As such, unpaid wages for such time Plaintiff worked are owed to Plaintiff
21 for the entire time he was employed by Defendants.

22 90. Defendants knew that – or acted with reckless disregard as to whether –
23 their refusal or failure to properly compensate Plaintiff over the course of his
24 employment would violate federal and state law, and Defendants were aware of the
25
26
27

1 Arizona Wage Act's requirements during Plaintiff's employment. As such, Defendants'
2 conduct constitutes a willful violation of the Arizona Wage Act.

3 91. Plaintiff is therefore entitled to compensation for his unpaid wages at an
4 hourly rate, to be proven at trial, in an amount that is treble the amount of his unpaid
5 wages, plus interest thereon, and his costs incurred.
6

7 **WHEREFORE**, Plaintiff, Gregory Stamper, requests that this Court grant the
8 following relief in Plaintiff's favor, and against Defendants:

- 9 A. For the Court to declare and find that the Defendants violated the unpaid
10 wage provisions of A.R.S. § 23-350, et seq., by failing to pay wages due
11 and owing to Plaintiff;
12
13 B. For the Court to award an amount that is treble Plaintiff's unpaid wages
14 pursuant to A.R.S. § 23-355, in amounts to be determined at trial;
15
16 C. For the Court to award prejudgment and post-judgment interest on any
17 damages awarded;
18
19 D. For the Court to award Plaintiff's reasonable attorneys' fees and costs of
20 the action and all other causes of action set forth in this Complaint; and
21
22 E. Such other relief as this Court deems just and proper.

23 **JURY TRIAL DEMAND**

24 Plaintiff hereby demands a trial by jury on all issues so triable.
25
26
27

1 RESPECTFULLY SUBMITTED this 27th day of January, 2022.

2
3 BENDAU & BENDAU PLLC

4 By: /s/ Christopher J. Bendau
5 Clifford P. Bendau, II
6 Christopher J. Bendau
7 *Attorney for Plaintiff*
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

VERIFICATION

Plaintiff, Gregory Stamper, declares under penalty of perjury that he has read the foregoing Verified Complaint and is familiar with the contents thereof. The matters asserted therein are true and based on his personal knowledge, except as to those matters stated upon information and believe, and, as to those matters, he believes them to be true.


Gregory Stamper (Jan 27, 2022 12:44 MST)
Gregory Stamper